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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD MARTIN and YONG KIM

Appeal 2009-003871
Application 10/657,942
Technology Center 2600

Decided: April 29, 2010

Before KENNETH W. HAIRSTON, MARC S. HOFF,
and THOMAS S. HAHN, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1 to 27. We have jurisdiction under 35 U.S.C. § 6(b).

We will sustain the rejection.

Appellants' invention is concerned with a hybrid wired/wireless local area network and particularly a method and communications system (*see* Figs. 10, 11; Spec. ¶¶ [81]-[92]) for hardware acceleration that creates and distributes a policy to a plurality of access points arranged in access point groups (*see* Abstract; Spec. ¶¶ [20]-[24]). Appellants claim and disclose a hardware acceleration method, system, and machine executable code for (i) creating a policy for distribution to at least one access point group, (ii) associating that policy with a particular one of the access point groups, and (iii) distributing the associated policy to at least one access point (claims 1, 10, and 19). The step of creating the policy and associating the policy with an access point group is performed by a processor (*see* 1110 in Fig. 11) which is part of a switch (1004 in Fig. 10 and 1102 in Fig. 11). The step of distributing the associated policy to an access point in the plurality of access point groups is performed by a transmitter (1104 in Fig. 11) that is also part of the switch.

Claim 1, reproduced below, is representative of the subject matter on appeal:

1. A method for hardware acceleration in a hybrid wired/wireless local area network, the method comprising:

creating at least one policy to be distributed among at least one of a plurality of access point groups;

associating said at least one policy with a particular one of said access point groups; and

distributing said associated at least one policy to at least one access point in said plurality of access point groups.

The Examiner relies upon the following as evidence of unpatentability:

Eichert	US 6,393,474 B1	May 21, 2002
Forslow	2002/0069278 A1	June 6, 2002

The following sole rejection is before us for review:

Claims 1 to 27 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Eichert and Forslow.

The Examiner relies upon Eichert as describing all of the features of a system, machine executable code, and method for hardware acceleration in a wired local area network (Ans. 3, 4). The Examiner relies upon Forslow as describing a policy administration method for distributing a policy to access points in a wireless network (Ans. 4). The Examiner determined that it would have been obvious "to incorporate the teachings of Forslow with those of Eichert et al. because it is desirable to implement a policy management system that can be dynamically controlled in a wireless network, due to their wide popularity and the ever increasing mobility of society" (Ans. 4). Appellants do not dispute the motivation for making the combination, or otherwise argue that the combination would not work.

Appellants contend, *inter alia*, that Eichert (i) does not teach or suggest associating a policy with one of the access point groups as set forth

in each of independent claims 1, 10, and 19 (App. Br. 6-8); (ii) teaches a *single* network device as opposed to a *plurality* of access points in groups (App. Br. 6-8); and (iii) sends the policy to *all* access points (i.e., to the entire network), and not just one or a "particular" access point (Reply Br. 4-5).

We note that Appellants' third line of argument with regard to claims 1, 10, and 19, that Eichert sends the policy to all points and not a particular one, is not commensurate in scope with what is claimed. In other words, the claimed invention set forth in claims 1, 10, and 19 does not require that the policy be sent to only some or one of the access points, and not to the others. Under the broadest reasonable interpretation, claims 1, 10, and 19 encompass a system and method that could potentially send a policy to *all* of the access points, but associates and distributes that policy to "at least one access point" as set forth in claims 1, 10, and 19. Accordingly, the obviousness issue presented only concerns Appellants' first and second contentions discussed *supra*.

ISSUE

Does Eichert disclose or suggest associating at least one policy with a particular one of a plurality of *access point groups* as recited in claims 1, 10, and 19?

FINDINGS OF FACT

1. Eichert describes a system and method for distributing a policy to a network that contains a plurality of "nodes" or "[m]ultiple network

devices" such as routers, remote access equipment, switches, repeaters and network cards (*see* Abs.; Figs. 1, 3; col. 2, ll. 1-54; col. 4, ll. 1-18; col. 7, ll. 31-56; col. 8, ll. 31-42; col. 9, ll. 1-32; claim 1 at col. 12, ll. 33-53). Eichert describes a policy management system with a policy implementation component that can "define how the network device should behave when confronted with a particular situation" (Abs.).

2. According to Eichert, policy is implemented when "a signal indicating that a new policy . . . is available" (col. 4, ll. 13-14). And, this occurs when a file is deposited onto a server or storage device, which "can occur in many ways including, but not limited to, the changing of a state or variable that the enforcement device monitors" (col. 4, ll. 10-12), or can occur when instructions have been input (col. 2, ll. 47-54; col. 7, ll. 1-30; col. 9, ll. 11-17).
3. Specifically, Eichert describes a policy management system for distributing a policy to a "variety of network devices, i.e., nodes or active nodes, such as routers, remote access equipment, switches, repeaters, network cards, and end system processes having security functions" (col. 2, ll. 9-12).
4. Eichert defines the policy by defining how the network device should work in particular situations (Abs.), and policy enforcement is described as serving "to enforce the defined policy" (col. 2, ll. 20-23).
5. Eichert describes a system administrator for inputting instructions representing policy using GUI and interface 101 of management station 100 (col. 7, ll. 1-7).

6. Eichert describes issuing policy through the network using network devices such as switches and/or servers (Abs.; col. 2, ll. 10-11 and 28-33; col. 4, ll. 1-18).
7. Eichert describes using "rules" or "protocols" for distributing policy (col. 7, l. 53; col. 8 discussing rules, objects, and format; col. 9, l. 19 discussing protocols).
8. Forslow describes distributing policy using "routing protocols" (¶¶ [0034], [0095]).
9. Forslow describes issuing policy using multicasting, groupcasting or xcasting, unicasting, and Bluetooth (¶¶ [0034], [0088], and [0095]).

PRINCIPLES OF LAW

Claim Construction

"During examination, 'claims . . . are to be given their broadest reasonable interpretation consistent with the specification, and . . . claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art.'" *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citation omitted); *In re Morris*, 127 F.3d 1048, 1053-54 (Fed. Cir. 1997).

Obviousness

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). The

Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

ANALYSIS

Claims 1, 10, and 19

At the outset, we note that each of the independent claims on appeal (claims 1, 10, and 19) recites the same subject matter that is at issue in this case: associating at least one policy with a particular one of the access point groups.

We will sustain the Examiner's rejection with respect to independent claims 1, 10, and 19 for the reasons that follow. We agree with the Examiner's findings of fact and conclusions of obviousness with respect to claims 1, 10, and 19 (Ans. 3-13), and adopt them as our own, along with some amplification of the Examiner's explanation of the teachings of Eichert (FF 1-7) and Forslow (FF 8, 9). *See Fine*, 837 F.2d at 1073; *Kahn*, 441 F.3d at 988.

Eichert discloses or suggests associating at least one policy with a particular one of a plurality of *access point groups* as recited in claims 1, 10, and 19 because the broadest reasonable interpretation of the access points and access point groups of the claims encompasses the network devices described by Eichert as including "nodes or active nodes, such as routers, remote access equipment, switches, repeaters, network cards, and end system processes having security functions" (FF 1, 3). In addition, one of ordinary skill in the art at the time of Appellants' claimed invention would

understand that any of the nodes, switches, or routers described by Eichert (i.e., network devices) could consist of access points which could be grouped into groups of access points. In other words, Eichert's description of nodes, switches, and routers encompasses the "access points" and "groups of access points" claimed by Appellants in claims 1, 10, and 19 since all of these elements are points at which a person could access the internet/network.

Claims 1, 10, and 19 merely require that at least one policy be associated with, and distributed to, an access point (*see* claims 1, 10, and 19). The broadest reasonable interpretation of the phrases "access point" and "access point group" would include the router, switches, and/or nodes of Eichert. *See Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d at 1364. In other words, the broadest reasonable interpretation of claims 1, 10, and 19 merely requires that a policy be associated with an access point and then be distributed to at least one access point in the plurality of access point groups (i.e., network). The broadest reasonable interpretation of claims 1, 10, and 19 does not require the system, method, and machine executable code to associate and distribute the policy with respect to only *one* of the access points as opposed to *all* of the access points. Therefore, in light of our findings with respect to Eichert (FF 1-7) *supra*, Eichert and Forslow in combination disclose or suggest all of the limitations of the independent claims as broadly interpreted.

The Examiner has provided articulated reasoning with a rational underpinning to support the combination for the legal conclusion of obviousness (Ans. 3-8). *See Kahn*, 441 F.3d at 988. Appellants have not

demonstrated that the Examiner erred in relying on the combination of Eichert and Forslow as teaching or suggesting a system, machine executable code, and method for hardware acceleration in a wired local area network including associating at least one policy with a particular one of the access point groups, as set forth in independent claims 1, 10, and 19. Appellants' contentions (App. Br. 6-9; Reply Br. 5) that Eichert (and thus the combination of Eichert and Forslow) fails to disclose or suggest (i) plural access point groups, or (ii) associating a policy with a particular one of those groups are unpersuasive in light of our findings with respect to Eichert (FF 1-7) and our claim interpretation discussed *supra*. Appellants' argument (Reply Br. 4, 5) that Eichert associates a policy with *all* of the network devices instead of just one, and therefore distributes the policy to the entire network, is also unconvincing inasmuch as the claims do not require *only one* device to receive policy.

For all of the above reasons, Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 1, 10, and 19 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Eichert and Fowslow. One of ordinary skill in the art would have found Appellant's claimed subject matter in claims 1, 10, and 19 obvious in light of the combination of Eichert and Forslow. Accordingly, we sustain the rejection of claims 1, 10, and 19.

Claims 2, 11, and 20

Turning next to claims 2, 11, and 20, we will likewise sustain the obviousness rejection of these claims because Eichert discloses defining a

policy (*see* FF 1, 4), and this is equivalent to "identifying" a policy as recited in the claims.

Claims 3, 12, and 21

Turning next to claims 3, 12, and 21, we will sustain the obviousness rejection of these claims because we agree with the Examiner (Ans. 7, 8, 10, and 14) that Eichert's description of distributing policy when a signal indicating a new policy is available, and doing so based on the "changing of a state or variable" that is being monitored (FF 2), is tantamount to the recited "occurrence of an event" (claims 3, 12, and 21).

Claims 4, 13, and 22

Turning next to claims 4, 13, and 22, we will sustain the obviousness rejection of these claims because we agree with the Examiner (Ans. 7, 8, 10, and 14-15) that Eichert discloses distributing a defined, thus identified, policy to an access point group upon the occurrence of an event as discussed *supra* with respect to (i) claims 1, 10, and 19, and (ii) claims 3, 12, and 21.

Claims 5, 14, and 23

Turning next to claims 5, 14, and 23, we will sustain the obviousness rejection of these claims for the reasons provided by the Examiner (Ans. 7, 9, 10, and 15) and for the same reasons discussed *supra* with respect to claims 4, 13, and 22 from which these claims ultimately depend.

Claims 6, 15, and 24

Turning next to claims 6, 15, and 24, we will sustain the obviousness rejection of these claims for the reasons provided by the Examiner (Ans. 7, 9, 10, and 16) and for the same reasons discussed *supra* with respect to claims 4, 13, and 22 from which these claims ultimately depend.

Claims 7, 16, and 25

Turning next to claims 7, 16, and 25, we will sustain the obviousness rejection of these claims because we agree with the Examiner (Ans. 7, 9, 11, and 16-17) that Eichert discloses distributing and communicating a policy through a switch or a server (FF 6), because one of ordinary skill in the art would understand that one form of network device is a server.

Claims 8, 17, and 26

Turning next to claims 8, 17, and 26, we will sustain the obviousness rejection of these claims because we agree with the Examiner (Ans. 8, 9, 11, and 17-18) that (i) Forslow discloses broadcasting (FF 9), and (ii) it would have been obvious to the skilled artisan to implement the broadcasting described by Forslow in the method and system of Eichert.

Claims 9, 18, and 27

Turning lastly to claims 9, 18, and 27, we will sustain the obviousness rejection of these claims because we agree with the Examiner (Ans. 8-11, 18-19) that (i) Forslow discloses or suggests a "routing protocol" which is equivalent to the recited messaging protocol (FF 8), and (ii) it would have been obvious to the skilled artisan to implement the protocol described by Forslow in the system and method of Eichert.

Summary

In summary, the Examiner's articulated reasoning in the rejection possesses a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d at 988. Eichert discloses or suggests associating at least one policy with a particular one of a plurality of *access point groups* as recited in claims 1, 10, and 19. Appellants have not

demonstrated any reversible error in the Examiner's findings and conclusions with respect to claims 1 to 27.

ORDER

The decision of the Examiner to reject claims 1 to 27 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

KIS

MCANDREWS HELD & MALLOY, LTD.
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661